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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,541	11/28/2003	Yoshio Ebihara	2018-812	8348
23117	7590	08/03/2004	EXAMINER	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			GIMIE, MAHMOUD	
		ART UNIT	PAPER NUMBER	
		3747		

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/722,541	EBIHARA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Mahmoud Gimie	3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 28 November 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-8,11,13 and 15-21 is/are rejected.

7)  Claim(s) 9,10,12 and 14 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 18 November 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,4,5-7,11,13 and 15-21 rejected under 35 U.S.C. 102(b) as being anticipated by Nagata et al (4,869,225).

Nagata discloses a fuel feed apparatus disposed in a fuel tank (1), the fuel feed apparatus comprising: a sub-tank (205) that is received in the fuel tank (1); a pump module that is received in the sub-tank and includes: a fuel Pump (209) that pumps fuel, which is supplied from the fuel tank to the sub-tank; and a suction filter (256) that is placed below the fuel pump (209) in a vertical direction and is connected to the fuel pump and to a bottom inner wall of the sub-tank on an opposite side with respect to the fuel pump, wherein the suction filter (256) removes debris from fuel to be supplied to the fuel pump; at least one supporting member (255, 205C) that has resiliency and supports the fuel pump (209) cooperation with the sub-tank (205) at a location, which is above the suction filter (256) in the vertical direction, see figure 6.

With regard to claim 2, the pump module further includes a casing, which accommodates the fuel pump (209).

With regard to claim 4, the at least one supporting member (255,205C) connects with the pump module at a location, which is above a center of gravity of the pump module.

With regard to claim 5, the at least one supporting member connects with a top end surface of the pump module

With regard to claim 6, the suction filter (256) includes a non-woven fabric material disposed along an outer peripheral surface of the suction filter

With regard to claim 7, the suction filter (256) includes a filtering material, which removes debris from fuel and has a bottom section that contacts the bottom inner wall of the sub-tank.

With regard to claims 11,13 and 15-21, see above and figures 1-8.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata et al (4,869,225) in view of Takahashi et al (6,253,738).

Nagata shows all the limitations as applied to claims 1,2,4,5-7,11,13 and 15-21 above, except for a filter element surrounding the fuel pump and the support material touching the bottom surface of the sub-tank.

Takahashi et al discloses both a suction filter and a filter that surrounds the fuel pump (13).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Nagata by used a second filter that surround the

pump as shown by Takahashi. The motivation to do so would have been to remove further debris from the fuel prior to pumping it to the internal combustion engine. With regard to claim 8, It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the elements 255 and 205d. The motivation to do so would have been to simplify manufacturing.

***Allowable Subject Matter***

5. Claims 9,10,12 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show pump modules.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahmoud Gimie whose telephone number is 703-305-

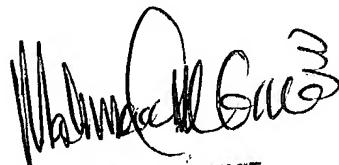
Art Unit: 3747

1037. The examiner can normally be reached on Tuesday-Friday between 7 a.m. -3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MG



MAHMOUD GIMIE  
PRIMARY PATENT EXAMINER  
ART UNIT 3747